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11 TAREK OBAID

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,
15 Plaintiff,

16 v.
17 CERTAIN RIGHTS TO AND
18 INTERESTS IN SHARES OF SERIES
D PREFERRED STOCK IN
19 PALANTIR TECHNOLOGIES,

20 Defendant.

Case No. 2:17-CV-04446-DSF-PLA
Hon. Dale S. Fischer

**BAKER & HOSTETLER LLP'S
NOTICE OF MOTION AND
MOTION TO WITHDRAW AS
COUNSEL OF RECORD FOR
CLAIMANT TAREK OBAID**

[Concurrently filed with Declaration
of David R. Rivkin and (Proposed)
Order]

Hearing Date: May 22, 2023
Time: 1:30 p.m.
Courtroom: 7D

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TAREK OBAID

BAKER & HOSTETLER LLP
ATTORNEYS AT LAW
COSTA MESA

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NOTICE OF MOTION AND MOTION

**TO THE COURT, ALL PARTIES, AND THEIR RESPECTIVE
COUNSEL OF RECORD:**

PLEASE TAKE NOTICE that on May 22, 2023, at 1:30 p.m., or as soon thereafter as the matter may be heard, Baker & Hostetler LLP (“Baker”) will, and hereby does, move this Court pursuant to Central District of California Local Rule (“L.R.”) 83-2.3.2 for an order granting Baker leave to withdraw as counsel of record for Claimant Tarek Obaid (“Mr. Obaid”) in the above-captioned matter, Case No. 2:17-CV-04446-DSF-PLA (the “Motion”). This Motion is based on the following:

- (1) Baker has been unable to communicate with Mr. Obaid regarding this action for more than five months; and
- (2) Mr. Obaid has failed to make substantial payments to Baker for past due and outstanding invoices for services rendered in this action.

This Motion is made following the conference of counsel pursuant to L.R. 7-3 and is premised upon this Notice, the Memorandum of Points and Authorities, and Declaration of David B. Rivkin, Jr. filed concurrently herewith, along with all pleadings and records on filed in this action, together with such oral and other arguments and documentary evidence as may be presented at the hearing on the Motion.

Dated: April 19, 2023

Respectfully Submitted,

BAKER & HOSTETLER LLP

By: /s/ *Dyanne J. Cho*
David B. Rivkin, Jr. (admitted *pro hac vice*)
Dyanne J. Cho

Attorneys for Claimant TAREK OBAID

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2 **MEMORANDUM OF POINTS AND AUTHORITIES**
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4 **I. INTRODUCTION AND FACTUAL BACKGROUND**
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6 Baker & Hostetler LLP (“Baker”) hereby moves the Court for an order
7 granting Baker leave to withdraw as counsel of record for Claimant Tarek Obaid
8 (“Mr. Obaid”). Baker has represented Mr. Obaid from the filing of his verified claim
9 in this matter and has drafted and filed numerous motions on Mr. Obaid’s behalf.
10 Declaration of David B. Rivkin, Jr. (“Rivkin Decl.”) ¶ 2. In its representation of Mr.
11 Obaid, Baker has filed a statement of interest and verified claim, a motion to dismiss,
12 a motion to strike, reply briefs, a motion for reconsideration, an opposition to the
13 Government’s motion to stay and has fully litigated an appeal before the Ninth
14 Circuit. *Id.* The Firm also filed a petition for certiorari to the U.S. Supreme Court.
15 *Id.* Baker has also participated in multiple meet and confer sessions with counsel for
16 the Government. *Id.* For longer than the past year, Mr. Obaid has failed to pay for
17 Baker’s services despite Baker’s repeated requests for payment and continued
18 zealous representation of Mr. Obaid. *Id.* ¶ 3.

19 Baker has also attempted on multiple occasions over the past five months to
20 contact Mr. Obaid to discuss the status of the litigation, as well as to request that Mr.
21 Obaid retain other counsel and have that counsel file a motion to appear in this
22 litigation so that Baker may withdraw as counsel of record from the case. *Id.* ¶ 4.
23 However, Mr. Obaid has refused to engage in any communications with Baker. *Id.*
24 Baker first attempted to contact Mr. Obaid to no avail to discuss the issue of
25 substituting out of the case a number of months ago. *Id.* Baker has also discussed
26 the need for counsel to substitute in for Baker with the U.K. lawyers for Mr. Obaid
27 from Armstrong Teasdale. *Id.* ¶ 5. For more than five months, Mr. Obaid has refused
28 to engage in communication with Baker. *Id.* ¶ 4. Given the preceding events and the

1 breakdown in communication between Mr. Obaid and Baker, Baker is left with no
 2 choice but to bring the instant Motion.

3 Baker has given notice of its intent to file this Motion to Mr. Obaid, including
 4 through email to Mr. Obaid's U.K. counsel, Armstrong Teasdale, and to the
 5 Government. *Id.* ¶¶ 7, 8. The Government does not oppose the Motion. *Id.* ¶ 8.

6 **II. GOOD CAUSE EXISTS FOR BAKER'S WITHDRAWAL**

7 The Ninth Circuit generally permits counsel to withdraw when there has been
 8 a total breakdown of communication between the client and counsel and the ability
 9 of counsel to represent the client has been severely and detrimentally affected. *See,*
 10 *e.g., Ringgold Corporation v. Worrall*, 880 F.2d 1138, 1139-1140 (9th Cir. 1989)
 11 (granting motion to withdraw under circumstances where the attorney had difficulty
 12 obtaining responses from his client to written correspondence or telephone calls).
 13 The Ninth Circuit has “made it abundantly clear in previous cases that litigants must
 14 make some reasonable effort to remain in contact with their attorneys and apprised
 15 of the status of their cases.” *Virtual Vision, Inc. v. Praegitzer Industries, Inc.*, 124
 16 F.3d 1140, 1145 (9th Cir. 1997) (granting an attorney’s motion to withdraw where
 17 the attorney sent copies of various correspondence and notices of deposition to the
 18 client by fax and mail without receiving any response from the client). A client is
 19 “in part responsible for ensuring that he received communications from his attorney.”
 20 *Id.* at 1144-45. This emphasis on the importance of client participation is reinforced
 21 in *United Artists Corp. v. La Cage Aux Folles, Inc.*, 771 F. 2d 1265 (9th Cir. 1985),
 22 where the Court condemned the litigant for his “lack of diligence in keeping abreast
 23 of the status of his case.” *Id.* at 1270.

24 Although Central District of California Local Rule 83-2.3.2 states that failure
 25 of the client to pay agreed compensation is not necessarily sufficient to establish good
 26 cause for withdrawal of counsel, the Ninth Circuit has permitted withdrawal based
 27 on a client’s failure to pay attorney’s fees. *Ringgold*, 880 F.2d at 1140 (permitting

1 withdrawal of defense counsel where the client failed to pay his legal expenses). A
 2 client's failure to pay agreed-upon attorneys' fees is grounds for the Court to grant
 3 an attorney's motion to withdraw as counsel. *Darby v. City of Torrance*, 810 F.Supp.
 4 275 (C.D. Cal. 1992). Here, Mr. Obaid has failed to pay Baker's fees for several
 5 years, which can be a basis to give leave to withdraw. Rivkin Decl. ¶ 3. However,
 6 more importantly, Mr. Obaid has failed to respond to Baker's multiple requests to
 7 discuss the litigation, Mr. Obaid's lack of payment, and the need to substitute counsel
 8 for Baker, which are separate bases justifying withdrawal. *Id.* ¶ 4.

9 This matter is currently stayed pursuant to the Court's order, and there is no
 10 scheduled trial date. *Id.* ¶ 6. Baker brings the instant Motion to be relieved as counsel
 11 of record now, when Mr. Obaid faces no pending deadlines, in order to allow time
 12 for Mr. Obaid to retain new counsel, should he so choose.

13 **III. CONCLUSION**

14 For the foregoing reasons, Baker respectfully requests that the Court issue an
 15 Order granting Baker leave to withdraw as counsel of record for Mr. Obaid so that
 16 Mr. Obaid will have sufficient time to retain new counsel while the case remains
 17 stayed.

18 Dated: April 19, 2023

Respectfully Submitted,

19 BAKER & HOSTETLER LLP

21 By: /s/ Dyanne J. Cho

22 David B. Rivkin (admitted *pro hac vice*)

23 Dyanne J. Cho

24 *Attorneys for Claimant TAREK OBAID*

By ELECTRONIC MAIL: by causing a true and correct copy thereof to be transmitted electronically to the attorney(s) of record at the e-mail address(es) indicated above.

By CM/ECF: I hereby certify that on the below date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail notice list, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants (if any) indicated on the Manual Notice list.

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed on April 19, 2023, at Los Angeles, California.

/s/ Roxana Guevara

Roxana Guevara